

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

IN THE MATTER OF:

HRL Laboratories, LLC
3011 Malibu Canyon Road
Malibu, California 90265

Formerly known as:

Hughes Research Laboratories, Inc.
3011 Malibu Canyon Road
Malibu, California 90265

EPA Number CAD 041 156 969

Respondent.

Docket HWCA: P3-03/04-007

CORRECTIVE ACTION
CONSENT AGREEMENT

Health and Safety Code
Section 25187

INTRODUCTION

1.0. The Department of Toxic Substances Control (DTSC) and HRL Laboratories, LLC, formerly known as Hughes Research Laboratories, Inc., (Respondent) enter into this Corrective Action Consent Agreement (Consent Agreement) and agree as follows:

1.1. Jurisdiction exists pursuant to Health and Safety Code section 25187, which authorizes DTSC to issue an order to require corrective action when DTSC determines that there is or has been a release of hazardous waste or hazardous waste constituents into the environment from a hazardous waste facility.

1.2. The parties enter into this Consent Agreement to avoid the expense of litigation and to carry out promptly the corrective action described below.

1.3. Respondent is the owner and operator of a hazardous waste facility located at 3011 Malibu Canyon Road, Malibu, California 90265 (Facility).

1.4. Respondent engaged in the management of hazardous waste pursuant to a permit issued by the Department of Health Services, which was DTSC's predecessor agency, on June 28, 1986. Respondent's authorization to operate the Facility as a hazardous waste facility ended on June 28, 1991.

1.5. The terms used in this Consent Agreement are as defined in California Code of Regulations, title 22, section 66260.10, except as otherwise provided.

1.6. Respondent agrees to implement all DTSC-approved workplans and to undertake all actions required by the terms and conditions of this Consent Agreement, including any portions of this Consent Agreement incorporated by reference.

1.7. In accordance with the terms of this Consent Agreement, Respondent waives any right to request a hearing on this Consent Agreement pursuant to Health

and Safety Code section 25187.

1.8. This Corrective Action Consent Agreement is proposed by DTSC as a mechanism to facilitate the corrective action process at the Facility and to ensure that the Facility is adequately investigated and remediated if required under DTSC's oversight.

1.9. The Attachments to this Corrective Action Consent Agreement are intended only for illustrative purposes, the actual content of the referenced documents will be determined by the parties as set forth in this Corrective Action Consent Agreement.

FINDINGS OF FACT

2.0. On June 1996, DTSC acknowledged Closure Certification in a letter dated June 27, 1996 to the Facility. Based on the Closure Report dated May 1996, DTSC identified two (2) solid waste management units (SWMUs) and two (2) areas of concern (AOCs) that either have released or may release hazardous waste or hazardous waste constituents into the environment. The SWMUs and AOCs are as follows:

SWMUs:

- 1) SWMU1: Acid Waste Neutralization Tank (AWNT).
- 2) SWMU2: Hazardous Waste Storage Area (HWSA).

AOCs:

- 1) AOC1: The drain area from the HWSA, and the ravine area into which the drain discharges.
- 2) AOC2: Area surrounding the AWNT.

2.1. Based on the evidence from the Closure Report dated May 1996, levels of metals and semi-volatile organic compounds were detected in the ravine area into which the drain discharges, which may have stemmed from the facility operations. DTSC concludes that further investigation is needed to determine the nature and extent of the existing and potential Facility generated hazardous waste or hazardous constituents at the SWMUs and AOCs as listed below:

SWMUs:

- 1) SWMU1: Acid Waste Neutralization Tank (AWNT).
- 2) SWMU2: Hazardous Waste Storage Area (HWSA).

AOCs:

- 1) AOC1: The drain area from the HWSA, and the ravine area into which the drain discharges.
- 2) AOC2: Area surrounding the AWNT.

The investigation of these AOCs and SWMUs should include, but not limited to, the following:

- Investigation of potential types and sources of Facility generated subsurface contamination.
- Preliminary characterization of site geology, stratigraphic structural relationships, and other features as they pertain to the movement and transport of contaminants in the vadose zone.
- Preliminary determination of the vertical and lateral extent of any contaminant plume that is discovered. If a plume is discovered, subsequent investigations may be required to determine the limits of the plume.

2.2. Facility generated hazardous wastes or hazardous waste constituents may have migrated from the Facility into the environment through the soil pathway.

2.3. The hazardous waste and hazardous waste constituents of concern at the Facility are petroleum hydrocarbons (diesel), mercury, reactive phosphorus compounds, solvents, including halogenated solvents, metals and polycyclic aromatic hydrocarbons.

2.4. The Facility is located in an industrial area. The nearest well reported by the Los Angeles County Department of Public Works is located approximately 1/4 mile east of the site. The depth to groundwater beneath the site is anticipated to be greater than 400 feet.

2.5. The metals and semi-volatile organic compounds detected in shallow soil samples may have the potential to migrate into groundwater beneath the site.

PROJECT COORDINATOR

3.0. Within 14 days of the effective date of this Consent Agreement, DTSC and Respondent shall each designate a Project Coordinator and shall notify each other in writing of the Project Coordinator selected. Each Project Coordinator shall be responsible for overseeing the implementation of this Consent Agreement and for designating a person to act in his/her absence. All communications between Respondent and DTSC, and all documents, report approvals, and other correspondence concerning the activities performed pursuant to this Consent Agreement shall be directed through the Project Coordinators. Each party may change its Project Coordinator with at least seven days prior written notice.

WORK TO BE PERFORMED

4.0. Respondent agrees to perform the work required by this Consent Agreement in accordance with the applicable state and federal laws, their implementing regulations, and in accordance with workplans approved by DTSC.

INTERIM MEASURES (IM)

5.0. Within 60 days of the effective date of this Consent Agreement, Respondent shall submit to DTSC a Current Status and RFI Workplan that includes a description of existing information pertinent to the Facility. The Current Status and RFI Workplan is subject to approval by DTSC and shall be developed in a manner consistent with the Scope of Work for a RCRA Facility Investigation contained in Attachment 5.

5.1. If at any time Respondent identifies an immediate or potential threat to human health and/or the environment, discovers new releases of Facility generated hazardous waste and/or hazardous waste constituents, or discovers new solid waste management units not previously identified, Respondent shall notify DTSC Project Coordinator orally within 48 hours of discovery and notify DTSC in writing within 10 business days of discovery summarizing the findings, including the immediacy and magnitude of the potential threat to human health and/or the environment as known at the time of the report. Within 30 days of receiving DTSC's written request, Respondent shall submit to DTSC an IM Workplan for approval. The IM Workplan shall include a schedule for submitting to DTSC an IM Operation and Maintenance Plan and IM Plans and Specifications. The IM Workplan, IM Operation and Maintenance Plan, and IM Plans and Specifications shall be developed in a manner consistent with the Scope of Work for Interim Measures Implementation contained in as Attachment 1. If DTSC determines that immediate action is required, DTSC Project Coordinator may orally authorize the Respondent to act prior to DTSC's receipt of the IM Workplan. Written notification that immediate action is required will be provided by DTSC within 10 business days after oral authorization. Such written notification shall specify the basis and reasons for immediate action.

5.2. If DTSC identifies an immediate or potential threat to human health and/or the environment, discovers new releases of Facility generated hazardous waste and/or hazardous waste constituents at the site, or discovers new solid waste management units not previously identified, DTSC will notify Respondent in writing. The written notification will be provided within 10 business days and shall specify the basis and reasons for immediate action. Within 30 days of receiving DTSC's written notification, Respondent shall submit to DTSC for approval an IM Workplan that identifies Interim Measures that will mitigate the threat. The IM Workplan shall include a schedule for submitting to DTSC an IM Operation and Maintenance Plan and IM Plans and Specifications. The IM Workplan, IM Operation and Maintenance Plan, and IM Plans and Specifications shall be developed in a manner consistent with the Scope of Work for Interim Measures Implementation contained in as Attachment 1. If DTSC determines that immediate action is required, DTSC Project Coordinator may orally authorize Respondent to act prior to receipt of the IM Workplan. The written notification that immediate action is required by DTSC within 10 business days after oral authorization. Such written notification shall specify the basis and reasons for immediate action.

5.3. All IM Workplans shall ensure that the Interim Measures are designed to mitigate current or potential threats to human health and/or the environment, and should, to the extent practicable, be consistent with the objectives of, and contribute to

the performance of, any remedy which may be required at the Facility.

5.4. Concurrent with the submission of an IM Workplan, Respondent shall submit to DTSC a Health and Safety Plan in accordance with the Scope of Work for a Health and Safety Plan contained in Attachment 2.

5.5. Concurrent with the submission of an IM Workplan, Respondent shall submit to DTSC for approval a Community Profile in accordance with Attachment 3. Based on the information provided in the Community Profile, if DTSC determines that there is a high level of community concern about the Facility, DTSC may require Respondent to prepare a Public Participation Plan.

RCRA FACILITY INVESTIGATION (RFI)

6.0. Within 60 days of the effective date of this Consent Agreement, Respondent shall submit to DTSC a Current Status and RCRA Facility Investigation (RFI) Workplan. The Current Status and RFI Workplan is subject to approval by DTSC and shall be developed in a manner consistent with the Scope of Work for a RCRA Facility Investigation contained in Attachment 5. DTSC will review the Current Status and RFI Workplan and notify Respondent in writing of DTSC's comments, approval or disapproval.

6.1. The RFI Workplan shall detail the methodology to: (1) gather data needed to make decisions on interim measures/ stabilization during the early phases of the RCRA Facility Investigation; (2) identify and characterize all sources of contamination; (3) define the nature, degree and extent of contamination; (4) define the rate of movement and direction of contamination flow; (5) characterize the potential pathways of contaminant migration; (6) identify actual or potential human and/or ecological receptors; and (7) support development of alternatives from which a corrective measure will be selected by DTSC. A specific schedule for implementation of all activities shall be included in the RFI Workplan.

6.2. Respondent shall submit a RFI Report to DTSC for approval in accordance with DTSC-approved RFI Workplan schedule. The RFI Report shall be developed in a manner consistent with the Scope of Work for a RCRA Facility Investigation contained in Attachment 5. If there is a phased investigation, separate RFI Reports and a report that summarizes the findings from all phases of the RFI must be submitted to DTSC. DTSC will review the RFI Report(s) and notify Respondent in writing of DTSC's comments, approval or disapproval.

6.3. Concurrent with the submission of a RFI Workplan, Respondent shall submit to DTSC a Health and Safety Plan in accordance with Attachment 2. If Workplans for both an IM and RFI are required by this Consent Agreement, Respondent may submit a single Health and Safety Plan that addresses the combined IM and RFI activities.

6.4. Respondent shall submit a RFI Summary Fact Sheet to DTSC that summarizes the findings from all phases of the RFI. The RFI Summary Fact Sheet shall be submitted to DTSC in accordance with the schedule contained in the approved RFI Workplan. DTSC will review the RFI Summary Fact Sheet and notify Respondent in writing of DTSC's approval, comments and/or modifications. When DTSC approves the RFI Summary Fact Sheet, Respondent shall mail the approved RFI Summary Fact

Sheet to all individuals on the Facility mailing list established pursuant to California Code Regulations, title 22, section 66271.9(c)(1)(D), within 15 calendar days of receipt of written approval.

6.5. Concurrent with the submission of a RFI Workplan, Respondent shall submit to DTSC for approval a Community Profile in accordance with Attachment 3. Based on the information provided in the Community Profile and any Supplement to the Community Profile, if DTSC determines that there is a high level of community concern about the Facility, Respondent shall prepare a Public Participation Plan.

RISK ASSESSMENT

7.0. Based on the information available to DTSC, Respondent may be required to conduct a Risk Assessment, consistent with and in support of Risk Based Corrective Action (RBCA), to evaluate potential human health risk and ecological risk and to establish site-specific action levels and cleanup standards. If DTSC determines that a Risk Assessment is required, Respondent shall submit to DTSC for approval a Risk Assessment Workplan, consistent with and in support of RBCA, within 60 days of receipt of DTSC's written determination. Respondent shall submit to DTSC for approval a Risk Assessment Report in accordance with DTSC-approved Risk Assessment Workplan schedule.

CORRECTIVE MEASURES STUDY (CMS)

8.0. If it becomes necessary to perform subsequent phase(s) of work, DTSC and Respondent will in good faith negotiate another consent agreement or amend this Consent Agreement to address the additional work. If another consent agreement or an amendment is not reached within 60 days, DTSC reserves its right to issue an order or take any other action provided for by law. DTSC's costs incurred in negotiating the subsequent consent agreement or the amendment are considered costs incurred pursuant to this Consent Agreement and are payable under this Consent Agreement.

8.1. Respondent shall prepare a Corrective Measures Study, if contaminant concentrations exceed human health-based or ecologically-based action levels established by the DTSC-approved Risk Assessment Report if one is required under this Consent Agreement.

8.2. Within 45 days of DTSC's approval of the RFI Report and Risk Assessment Report, if required, (or Respondent's receipt of a written request from DTSC), Respondent shall submit a CMS Workplan to DTSC. The CMS Workplan is subject to approval by DTSC and shall be developed in a manner consistent with the Scope of Work for a Corrective Measures Study contained in Attachment 6.

8.3. The CMS Workplan, if required, shall detail the methodology for developing and evaluating potential corrective measures to remedy any contamination at the Facility. The CMS Workplan shall identify the potential corrective measures, including any innovative technologies, that may be used for the containment, treatment, remediation, and/or disposal of contamination.

8.4. Respondent shall, if appropriate as determined by DTSC, prepare treatability studies for all potential corrective measures that involve treatment. The CMS

Workplan shall include, at a minimum, a summary of the proposed treatability study including a conceptual design, a schedule for submitting a treatability study workplan, or Respondent's justification for not proposing a treatability study.

8.5. Respondent shall submit a CMS Report, if required, to DTSC for approval in accordance with DTSC-approved CMS Workplan schedule. The CMS Report shall be developed in a manner consistent with the Scope of Work for a Corrective Measures Study contained in Attachment 6. DTSC will review the CMS Report and notify Respondent in writing of DTSC's comments, approval or disapproval.

REMEDY SELECTION

9.0. DTSC will provide the public with an opportunity to review and comment on the final draft of the CMS Report, if required, DTSC's proposed corrective measures for the Facility, and DTSC's justification for selection of such corrective measures. Depending on the level of community concern, DTSC may conduct a public hearing to obtain comments.

9.1. Following the public comment period, if applicable, DTSC may select final corrective measures or require Respondent to revise the CMS Report and/or perform additional corrective measures studies. DTSC will notify Respondent in writing if the CMS Report needs revision and/or if additional corrective measures studies are warranted. DTSC's written notification shall include the reason(s) for revisions and/or additional corrective measures studies. Within 45 days of receipt of DTSC's written comments, Respondent shall submit to DTSC the revised CMS Report and/or additional corrective measures studies for DTSC's written comments or approval.

9.2. DTSC will notify Respondent in writing of the final corrective measures selected by DTSC, if applicable, in the Final Decision and Response to Comments. The written notification will include DTSC's reasons for selecting the corrective measures.

CORRECTIVE MEASURES IMPLEMENTATION (CMI)

10.0. Within 60 days of Respondent's receipt of notification of DTSC's selection of the corrective measures, if applicable, Respondent shall submit to DTSC a Corrective Measures Implementation (CMI) Workplan. The CMI Workplan is subject to approval by DTSC and shall be developed in a manner consistent with the Scope of Work for Corrective Measures Implementation contained in Attachment 7.

10.1. Concurrent with the submission of a CMI Workplan, if applicable, Respondent shall submit to DTSC a Health and Safety Plan in accordance with Attachment 2.

10.2. Concurrent with the submission of a CMI Workplan, if applicable, Respondent shall submit to DTSC for approval a Community Profile in accordance with Attachment 3. Based on the information provided in the Community Profile and any Supplement to the Community Profile, if DTSC determines that there is a high level of community concern about the Facility, DTSC may require Respondent to prepare a Public Participation Plan.

10.3. The CMI program shall be designed to facilitate the design,

construction, operation, maintenance, and monitoring of corrective measures at the Facility. In accordance with the schedule contained in the approved CMI Workplan, if applicable, Respondent shall submit to DTSC the documents listed below, to the extent applicable. These documents shall be developed in a manner consistent with the Scope of Work for Corrective Measures Implementation contained in Attachment 7.

- Operation and Maintenance Plan
- Draft Plans and Specifications
- Final Plans and Specifications
- Construction Workplan
- Construction Completion Report
- Corrective Measures Completion Report

10.4. DTSC will review all required CMI documents, if applicable, and notify Respondent in writing of DTSC's comments, approval or disapproval.

10.5. As directed by DTSC, within 90 days of DTSC's approval of all required CMI documents, if applicable, Respondent shall establish a financial assurance mechanism for Corrective Measures Implementation. The financial assurance mechanisms may include a performance or surety bond, liability insurance, an escrow performance guarantee account, a trust fund, financial test, or corporate guarantee as described in California Code of Regulations, title 22, section 66265.143 or any other mechanism acceptable to DTSC. The mechanism shall be established to allow DTSC access to the funds to undertake Corrective Measures Implementation tasks if Respondent is unable or unwilling to undertake the required actions.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

11.0. DTSC must comply with the California Environmental Quality Act (CEQA) insofar as activities required by this Consent Agreement are projects subject to CEQA. DTSC shall request, in writing, from Respondent and Respondent shall provide all information reasonably necessary and achievable to Respondent to facilitate any CEQA analysis. DTSC will make an initial determination regarding the applicability of CEQA. If the activities are not exempt from CEQA, DTSC will conduct an Initial Study. Based on the results of the Initial Study, DTSC will determine if a Negative Declaration or an Environmental Impact Report (EIR) should be prepared. DTSC will notify Respondent in writing of the results of the Initial Study. DTSC will prepare and process any such Negative Declaration. However, should DTSC determine that an EIR is necessary, such an EIR would be prepared under a separate agreement between DTSC and Respondent.

DTSC APPROVAL

12.0. Respondent shall revise any workplan, report, specification, or schedule in accordance with DTSC's written comments. Respondent shall submit to DTSC any revised documents or provide a written request for additional time by the due date specified by DTSC. Revised submittals are subject to DTSC's comments,

approval or disapproval.

12.1. Upon receipt of DTSC's written approval, Respondent shall commence work and implement any approved workplan in accordance with the schedule and provisions contained therein.

12.2. Any DTSC-approved workplan, report, specification, or schedule required under this Consent Agreement shall be deemed incorporated into this Consent Agreement.

12.3. Verbal advice, suggestions, or comments given by representatives of DTSC or Respondent shall not constitute an official approval or decision or request. All official advice, suggestions, comments, approvals, decisions, and requests by DTSC and Respondent shall be written.

SUBMITTALS

13.0. Beginning with the first full month following the effective date of this Consent Agreement, Respondent shall provide DTSC with quarterly progress reports of activities conducted pursuant to this Consent Agreement. Progress reports are due on the 15th day of the first month following the close of each reporting period. The progress reports shall conform to the Scope of Work for Progress Reports contained in Attachment 8. DTSC may adjust the frequency of progress reporting to be consistent with site-specific activities. DTSC will notify Respondent in writing of any change in progress reporting frequency.

13.1. Any report or other document submitted by Respondent pursuant to this Consent Agreement shall be signed and certified by the project coordinator, a responsible corporate officer, or a duly authorized representative. Respondent shall provide DTSC a list of duly authorized representatives.

13.2. The certification required by paragraph 13.1 above, shall be in the following form:

I certify, to the best of my knowledge, that the information contained in or accompanying this submittal is true, accurate, and complete. As to those portions of this submittal for which I cannot personally verify the accuracy, I certify that this submittal and all attachments were prepared at my direction in accordance with procedures designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Signature: _____

Name: _____

Title: _____

Date: _____

13.3. Respondent shall provide three copies of all documents, including but not limited to, workplans, reports, and correspondence. Submittals specifically

exempted from this copy requirement are all progress reports and correspondence of less than 15 pages, of which one copy is required.

13.4. All reports, correspondence, comments, approvals, disapprovals, notices, or other submissions relating to this Consent Agreement shall be in writing. Unless otherwise specified, all reports, correspondence, approvals, disapprovals, notices, or other submissions relating to this Consent Agreement shall be in writing and shall be sent to the current Project Coordinators.

PROPOSED CONTRACTOR/CONSULTANT

14.0. All work performed pursuant to this Consent Agreement shall be under the direction and supervision of a professional engineer or registered geologist, registered in California, with expertise in hazardous waste site cleanup. Respondent's contractor or consultant shall have the technical expertise sufficient to fulfill his or her responsibilities. Within 14 days of the effective date of this Consent Agreement, Respondent shall notify DTSC Project Coordinator in writing of the name, title, and qualifications of the professional engineer or registered geologist and of any contractors or consultants and their personnel to be used in carrying out the terms of this Consent Agreement.

ADDITIONAL WORK

15.0. DTSC may determine or Respondent may propose that certain tasks, including investigatory work, engineering evaluation, or procedure/methodology modifications are necessary in addition to, or in lieu of, the tasks and deliverables included in any part of DTSC-approved workplans. DTSC shall request in writing that Respondent perform the additional work and shall specify the basis and reasons for DTSC's determination that the additional work is necessary. Within 14 days after the receipt of such written determination, Respondent may request, in writing, to confer with DTSC to discuss the additional work DTSC has requested. If required by DTSC, Respondent shall submit to DTSC a workplan for the additional work. Such workplan shall be submitted to DTSC within 30 days of receipt of DTSC's determination, within 30 days after Respondent and DTSC have met to discuss the additional work, or according to an alternate schedule agreed by Respondent and established by DTSC, whichever is applicable. Upon written approval of a workplan, Respondent shall implement it in accordance with the provisions and schedule contained therein. The need for, and disputes concerning, additional work, as provided for in this Section 15, are subject to the dispute resolution procedures specified in this Consent Agreement.

QUALITY ASSURANCE

16.0. All sampling and analyses performed by Respondent under this Consent Agreement shall follow applicable DTSC and U.S. EPA guidance for sampling and analysis. Workplans shall contain quality assurance/quality control and chain of custody procedures for all sampling, monitoring, and analytical activities. Any deviations from the approved workplans must be approved in writing by DTSC prior to

implementation, must be documented, including reasons for the deviations, and must be reported in the applicable report.

16.1. The names, addresses, and telephone numbers of the California State certified analytical laboratories Respondent proposes to use must be specified in the applicable workplans.

SAMPLING AND DATA/DOCUMENT AVAILABILITY

17.0. Respondent shall submit to DTSC upon request the results of all sampling and/or tests or other data generated by its employees, agents, consultants, or contractors pursuant to this Consent Agreement.

17.1. Respondent shall notify DTSC in writing at least seven days prior to beginning each separate phase of field work approved under any workplan required by this Consent Agreement. If Respondent believes it must commence emergency field activities without delay, Respondent may seek emergency telephone authorization from DTSC Project Coordinator or, if the Project Coordinator is unavailable, his/her Branch Chief, to commence such activities immediately.

17.2. At the request of DTSC, Respondent shall provide or allow DTSC or its authorized representative to take split or duplicate samples of all samples collected by Respondent pursuant to this Consent Agreement. Similarly, at the request of Respondent, DTSC shall allow Respondent or its authorized representative to take split or duplicate samples of all samples collected by DTSC under this Consent Agreement.

ACCESS

18.0. Subject to the Facility's security and safety procedures, Respondent agrees to provide DTSC and its representatives access at all reasonable times to the Facility for implementation of this Consent Agreement and shall permit such persons to inspect and copy all records, files, photographs, documents, including all sampling and monitoring data, that pertain to work undertaken pursuant to this Consent Agreement and that are within the possession or under the control of Respondent or its contractors or consultants. Nothing in this Consent Agreement is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

18.1. To the extent that any property to which access is required for the implementation of this Corrective Action Consent Agreement is owned or controlled by persons other than Respondent, Respondent shall use reasonable efforts to secure from such persons access for Respondent, as well as DTSC, its representatives and contractors, as is necessary to effectuate this Corrective Action Consent Agreement. In the event that Respondent is unable to obtain such access within a reasonable time, Respondent shall give prompt written notice to DTSC including therein a summary of its efforts to obtain such access.

RECORD PRESERVATION

19.0. Respondent shall retain, during the pendency of this Consent Agreement and for a minimum of three (3) years after its termination, all data, records,

and documents that relate in any way to the performance of this Consent Agreement or to hazardous waste management and/or disposal at the Facility. Respondent shall notify DTSC in writing 90 days prior to the destruction of any such records, and shall provide DTSC with the opportunity to take possession of any such records. Such written notification shall reference the effective date, caption, and docket number of this Consent Agreement and shall be addressed to:

Chief
Southern California Permitting and Corrective Action Branch
Hazardous Waste Management Program
Department of Toxic Substances Control
1011 N. Grandview Avenue
Glendale, California 91201

19.1. If Respondent retains or employs any agent, consultant, or contractor for the purpose of carrying out the terms of this Consent Agreement, Respondent will require any such agents, consultants, or contractors to provide Respondent a copy of all documents produced pursuant to this Consent Agreement.

19.2. All documents pertaining to this Consent Agreement shall be stored in a central location at the Facility, or at a location otherwise agreed to by the parties, to afford easy access by DTSC and its representatives.

DISPUTE RESOLUTION

20.0. The parties agree to use their best efforts to resolve all disputes informally.

20.1. If Respondent disagrees with any written decision or billing statement issued by DTSC pursuant to this Consent Agreement, Respondent's Project Coordinator shall orally notify DTSC Project Coordinator of the dispute. The Project Coordinators shall attempt to resolve the dispute informally.

20.2. If the Project Coordinators cannot resolve the dispute informally, Respondent may pursue the matter formally by placing its objection in writing. Respondent's written objection must be forwarded to Chief, Southern California Permitting and Corrective Action Branch, Hazardous Waste Management Program, Department of Toxic Substances Control, with a copy to DTSC's Project Coordinator. The written objection must be mailed to the Branch Chief within 14 days of Respondent's receipt of DTSC's written decision. Respondent's written objection must set forth the specific points of the dispute and the basis for Respondent's position.

20.3. DTSC and Respondent shall have 14 days from DTSC's receipt of Respondent's written objection to resolve the dispute through formal discussions. This period may be extended by DTSC for good cause. During such period, Respondent may meet or confer with DTSC to discuss the dispute.

20.4. After the formal discussion period, the Branch Chief will provide Respondent with a written decision and the basis therefore within 30 days of DTSC's receipt of Respondent's written objection. This period may be extended by DTSC for good cause.

20.5. If Respondent disagrees with the Branch Chief's written decision, Respondent may appeal in writing the decision to the Permitting Chief within 14 days of receipt of the Branch Chief's written decision. Respondent written appeal shall include Respondent's original written objection, the Branch Chief's written decision and any supporting documentation. The Permitting Chief will provide Respondent with a written decision within 21 days of receipt of Respondent's written appeal.

20.6. During the pendency of all dispute resolution procedures set forth above, the time periods for completion of work required under this Consent Agreement that are affected by such dispute shall be extended for a period of time not to exceed the actual time taken to resolve the dispute. The existence of a dispute shall not excuse, toll, or suspend any other compliance obligation or deadline required pursuant to this Consent Agreement.

RESERVATION OF RIGHTS

21.0. DTSC reserves all of its statutory and regulatory powers, authorities, rights, and remedies, which may pertain to Respondent's failure to comply with any of the requirements of this Consent Agreement. Respondent reserves all of its statutory and regulatory rights, defenses and remedies, as they may arise under or relate to this Consent Agreement. This Consent Agreement shall not be construed as a covenant not to sue, release, waiver, or limitation on any powers, authorities, rights, or remedies, civil or criminal, that DTSC or Respondent may have under any laws, regulations or common law.

21.1. DTSC reserves the right to disapprove of work performed by Respondent pursuant to this Consent Agreement and to request that Respondent perform additional tasks.

21.2. DTSC reserves the right to perform any portion of the work consented to herein or any additional site characterization, feasibility study, and/or remedial actions it deems necessary to protect human health and/or the environment. DTSC may exercise its authority under any applicable state or federal law or regulation to undertake response actions at any time. DTSC reserves its right to seek reimbursement from Respondent for reasonable and customary costs incurred by the State of California with respect to such actions. DTSC will notify Respondent in writing as soon as practicable regarding the decision to perform any work described in this section.

21.3. If DTSC determines that activities in compliance or noncompliance with this Consent Agreement have caused or may cause a release of hazardous waste and/or hazardous waste constituents, or a threat to human health and/or the environment, or that Respondent is not capable of undertaking any of the work required, DTSC may order Respondent to stop further implementation of this Consent Agreement for such period of time as DTSC determines may be needed to abate any such release or threat and/or to undertake any action which DTSC determines is necessary to abate such release or threat. The deadlines for any actions required of Respondent under this Consent Agreement affected by the order to stop work shall be extended to take into account DTSC's actions.

21.4. This Consent Agreement is not intended to be nor shall it be construed to be a permit. This Consent Agreement is not a substitute for, and does not preclude DTSC from requiring, any hazardous waste facility permit, post closure permit, closure plan or post closure plan. The parties acknowledge and agree that DTSC's approval of any workplan, plan, and/or specification does not constitute a warranty or representation that the workplans, plans, and/or specifications will achieve the required cleanup or performance standards. Compliance by Respondent with the terms of this Consent Agreement shall not relieve Respondent of its obligations to comply with the Health and Safety Code or any other applicable local, state, or federal law or regulation.

OTHER CLAIMS

22.0. Except as provided in this Consent Agreement, nothing in this Consent Agreement shall constitute or be construed as a release by DTSC or Respondent from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any Facility generated hazardous constituents, hazardous substances, hazardous wastes, found at, taken to, or taken or migrating from the Facility.

COMPLIANCE WITH WASTE DISCHARGE REQUIREMENTS

23.0. To the extent corrective measures are implemented and require waste discharge requirements, Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California Regional Water Quality Control Board.

OTHER APPLICABLE LAWS

24.0. All actions required by this Consent Agreement shall be conducted in accordance with the requirements of all local, state, and federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

REIMBURSEMENT OF DTSC'S COSTS

25.0. Respondent shall pay DTSC's reasonable and customary costs incurred in the implementation of this Consent Agreement.

25.1. An estimate of DTSC's reasonable and customary oversight costs is attached as Attachment 9 showing the amount of \$117,382. It is understood by the parties that this amount is only a cost estimate for the activities shown on Exhibit A and it may differ from the actual costs incurred by DTSC in overseeing these activities or in implementing this Consent Agreement. DTSC will provide additional cost estimates to Respondent as the work progresses under the Consent Agreement.

25.2. Respondent shall make an advance payment to DTSC in the amount

of \$25,000 within 30 days of the effective date of this Consent Agreement. If the advance payment exceeds DTSC's costs, DTSC will refund the balance within 120 days after the execution of the Acknowledgment of Satisfaction pursuant to Section 27, Termination and Satisfaction, of this Consent Agreement.

25.3. DTSC will provide Respondent with a billing statement at least quarterly, which will include the name(s) of the employee(s), identification of the activities, the amount of time spent on each activity, and the hourly rate charged. If Respondent does not pay an invoice within 60 days of Respondent's receipt, the amount is subject to interest as provided by Health and Safety Code section 25360.1. In the event an invoice is in dispute, relief of interest will be extended 30 days beyond the resolution of the dispute.

25.4. DTSC will retain all costs records associated with the work performed under this Consent Agreement as required by state law. DTSC will make all documents that support the DTSC's cost determination available for inspection upon request, as provided by the Public Records Act.

25.5. Any dispute concerning DTSC's costs incurred pursuant to this Consent Agreement is subject to the Dispute Resolution provision of this Consent Agreement and the dispute resolution procedures as established pursuant to Health and Safety Code section 25269.2. DTSC reserves its right to recover unpaid costs under applicable state and federal laws.

25.6. All payments shall be made within 30 days of the date of the billing statement by check payable to the Department of Toxic Substances Control and shall be sent to:

Accounting Unit
Department of Toxic Substances Control
P. O. Box 806
Sacramento, California 95812-0806

All checks shall reference the name of the Facility, the Respondent's name and address, and the docket number of this Consent Agreement. Copies of all checks and letters transmitting such checks shall be sent simultaneously to DTSC's Project Coordinator.

MODIFICATION

26.0. This Consent Agreement may be modified by mutual agreement of the parties. Any agreed modification shall be in writing, shall be signed by both parties, shall have as its effective date the date on which it is signed by all the parties, and shall be deemed incorporated into this Consent Agreement.

26.1. Any requests for revision of an approved workplan requirement must be in writing. Such requests must be timely and provide justification for any proposed workplan revision. DTSC has no obligation to approve such requests. If the Respondent's request is disapproved, DTSC shall specify the basis and reasons for the denied request in writing. If Respondent does not concur with DTSC's disapproval of request, Respondent may dispute the decision as outlined in section 20, Dispute

Resolution of the Consent Agreement. If Respondent's request is approved, such approval shall be in writing and signed by the Chief, Southern California Permitting and Corrective Action Branch, Hazardous Waste Management Program, Department of Toxic Substances Control, or his or her designee. Any approved workplan revision shall be incorporated by reference into this Consent Agreement.

26.2. During the pendency of all requests for revision of an approved workplan, the time periods for the completion of work required under this Consent Agreement that are affected by such requests shall be extended for a period of time not to exceed the actual time taken to disapprove or approve the request. The existence of a request for revision of an approved workplan shall not excuse, toll, or suspend any other compliance obligation or deadline required pursuant to this Consent Agreement.

TERMINATION AND SATISFACTION

27.0. The provisions of this Consent Agreement shall be deemed satisfied upon the execution by both parties of an Acknowledgment of Satisfaction (Acknowledgment). DTSC will prepare the Acknowledgment for Respondent's signature. The Acknowledgment will specify that Respondent has demonstrated to the satisfaction of DTSC that the terms of this Consent Agreement including payment of DTSC's costs have been satisfactorily completed. The Acknowledgment will affirm Respondent's continuing obligation to preserve all records after the rest of the Consent Agreement is satisfactorily completed.

EFFECTIVE DATE

28.0. The effective date of this Consent Agreement shall be the date on which this Consent Agreement is signed by all the parties. Except as otherwise specified, "days" means calendar days.

SIGNATORIES

29.0. Each undersigned representative certifies that he or she is fully authorized to enter into this Consent Agreement.

DATE: 1/29/2004 BY: //Original signed by//
Daniel R. Allemeier
Secretary and General Counsel
HRL Laboratories, LLC

DATE: 2/3/04 BY: //Original signed by//
Jose Kou, P.E., Chief
Southern California Permitting and Corrective Action Branch
Department of Toxic Substances Control